

**Subpart 23.8—Ozone-Depleting Substances**

Sec.

- 23.800 Scope of subpart.
- 23.801 Authorities.
- 23.802 Definitions.
- 23.803 Policy.
- 23.804 Contract clauses.

**23.800 Scope of subpart.**

This subpart sets forth policies and procedures for the acquisition of items which contain, use, or are manufactured with ozone-depleting substances. This subpart does not apply to contracts performed outside the United States, its possessions, and Puerto Rico.

**23.801 Authorities.**

- (a) Title VI of the Clean Air Act (42 U.S.C. 7671, *et seq.*).
- (b) Executive Order 12843, April 21, 1993.
- (c) Environmental Protection Agency (EPA) regulations, Protection of Stratospheric Ozone (40 CFR part 82).

**23.802 Definitions.**

*Class I substance* means any substance designated as class I by EPA (40 CFR part 82), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform.

*Class II substance* means any substance designated as class II by EPA (40 CFR part 82), including but not limited to hydrochlorofluorocarbons.

**23.803 Policy.**

- (a) It is the policy of the Federal Government that Federal agencies:
  - (1) Implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone; and
  - (2) Give preference to the procurement of alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by lessening the depletion of ozone in the upper atmosphere.

(b) In preparing specifications and purchase descriptions, and in the acquisition of supplies and services, agencies shall ensure that acquisitions:

- (1) Comply with the requirements of Title VI of the Clean Air Act, Executive Order 12843, and 40 CFR 82.84(a) (2), (3), (4), and (5); and
- (2) Substitute safe alternatives to ozone-depleting substances, as identified under 42 U.S.C. 7671k, to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1).

**23.804 Contract clauses.**

- (a) The contracting officer shall insert the clause at 52.223-11, Ozone-

Depleting Substances, in solicitations and contracts for supplies containing or manufactured with class I or class II ozone-depleting substances or containers of class I or class II ozone-depleting substances.

(b) The contracting officer shall insert the clause at 52.223-12, Refrigeration Equipment and Air Conditioners, in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using class I or class II ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicle, refrigerators, chillers, or freezers.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. and 4. Section 52.223-11 and 52.223-12 are added to read as follows:

**52.223-11 Ozone-Depleting Substances.**

As prescribed in 23.804(a), insert the following clause:

OZONE-DEPLETING SUBSTANCES (MAY 1995)

**(a) Definitions.**

*Class I substance*, as used in this clause, means any substance designated as class I by the Environmental Protection Agency (EPA) (40 CFR Part 82), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform.

*Class II substance*, as used in this clause, means any substance designated as class II by EPA (40 CFR Part 82), including but not limited to hydrochlorofluorocarbons.

(b) As required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, the Contractor shall label products which contain a class I or class II ozone-depleting substance or are manufactured with a process that uses class I or class II ozone-depleting substances, or containers of class I or class II ozone-depleting substances, as follows:

"WARNING: Contains (or manufactured with, if applicable) \_\_\_\_\_, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere."

\*The Contractor shall insert the name of the substance(s).

(End of clause)

**52.223-12 Refrigeration Equipment and Air Conditioners.**

As prescribed in 23.804(b), insert the following clause:

REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995)

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

(End of clause)

[FR Doc. 95-13256 Filed 5-30-95; 8:45 am]

BILLING CODE 6820-EPD-M

**DEPARTMENT OF DEFENSE****GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Part 25 and 52**

[FAC 90-27, FAR Case 95-601, Item IV]

RIN 9000-AG43

**Federal Acquisition Regulation; Addition of Three New European Community Countries**

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to add Austria, Finland, and Sweden to the FAR definition of "European Community (EC) Country" and to the definition of "sanctioned member state of the EC". The United States Trade Representative has requested this action be taken as soon as possible because these countries have joined the EC on January 1, 1995. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**DATES:** Effective Date: May 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward McAndrew at (202) 501-1474 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-27, FAR case 95-601.

**SUPPLEMENTARY INFORMATION:****A. Background**

By letter, dated December 21, 1994, the General Counsel, United States Trade Representative Office, requested that three countries, Austria, Finland and Sweden, be added to sections 25.401 and 25.1001 because these countries became members of the European Union on January 1, 1995. The General Counsel requested these changes as quickly as possible after the new year.

**B. Regulatory Flexibility Act**

This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory

Flexibility Act, 5 U.S.C. 601, *et seq.*, because it merely adds three countries to the definition of European country in section 25.401 and the same three countries are added to the definition of sanctioned member state of the EC. This is mostly a ministerial rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-27, FAR Case 95-601), in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

### List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 25 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 25 and 52 continues to read as follows:

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

### PART 25—FOREIGN ACQUISITION

2. Section 25.401 is amended by revising the definition "EC country" to read as follows:

#### 25.401 Definitions.

\* \* \* \* \*

*EC country*, as used in this subpart, means Austria, Belgium, Denmark, Federal Republic of Germany, Finland, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

\* \* \* \* \*

3. Section 25.1001 is amended by revising the definition "Sanctioned member state of the EC" to read as follows:

#### 25.1001 Definitions.

\* \* \* \* \*

*Sanctioned member state of the EC* means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, and the United Kingdom.

### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

#### 52.225-15 [Amended]

4. Section 52.225-15 is amended by revising the date in the clause heading to read "(MAY 1995)"; and in the definition of "EC country" by adding in alphabetical order the countries "Austria", "Finland", and "Sweden".

#### 52.225-17 [Amended]

5. Section 52.225-17 is amended by revising the date in the clause heading to read "(MAY 1995)"; and in the definition of "European Community country" by adding in alphabetical order the countries "Austria", "Finland", and "Sweden".

#### 52.225-18 [Amended]

6. Section 52.225-18 is amended by revising the date in the clause heading to read "(MAY 1995)"; and in the definition of "Sanctioned member state of the EC" by adding in alphabetical order the countries "Austria", "Finland", and "Sweden".

#### 52.225-19 [Amended]

7. Section 52.225-19 is amended by revising the date in the clause heading to read "(MAY 1995)"; and in the definition of "Sanctioned member state of the European Community (EC)" by adding in alphabetical order the countries "Austria", "Finland", and "Sweden".

[FR Doc. 95-13258 Filed 5-30-95; 8:45 am]

BILLING CODE 6820-EPD-M

### DEPARTMENT OF DEFENSE

#### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 25 and 52

[FAC 90-27; FAR Case 94-5; Item V]

#### Federal Acquisition Regulation; Trade Sanctions—Germany

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to reflect the termination of the trade sanctions on the Federal Republic of

Germany that had been imposed in May 1993. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**EFFECTIVE DATE:** May 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-27, FAR case 94-5.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

A U.S. Trade Representative determination, published in the **Federal Register** at 59 FR 11360, March 10, 1994, terminated the sanctions that had been imposed on the Federal Republic of Germany, published at 58 FR 31136, May 28, 1993, on the basis of assurance from Germany that it would not apply the discriminatory provisions of the Utilities Directive of the European Union to procurement of U.S. goods by its telecommunications utilities.

##### B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-27, FAR case 94-5), in correspondence.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 25 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 25 and 52 continues to read as follows: